

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

CIVIL NO. 1:00CV33

ELSIE GODFREY, Individually and )  
as Personal Representative of the )  
Estate of Willie C. Godfrey; JAMES )  
E. AMMONS; THOMAS M. ARD, and )  
wife MYRNA F. ARD; WILLIAM H. )  
BRADLEY, and wife CLYDEAN C. )  
BRADLEY; DAVID K. BROWN; )  
RICHARD D. DAY, and wife DIANE )  
M. DAY; CECIL F. FOSTER, and )  
wife MATTIE D. FOSTER; HERBERT )  
GIBSON, and wife KAY MARLOW )  
GIBSON; HOMER M. GUFFEY, and )  
wife IVA T. GUFFEY; HOWARD R. )  
GUFFEY, and wife GAIL E. GUFFEY; )  
JAMES CHARLIE HENLINE, and wife )  
LOUISE W. HENLINE; JOHN F. )  
HUMPHRIES; RONNIE L. INGLE, and )  
wife CHRISTA M. INGLE; GARY )  
LAVENDER; SYLVIA G. McCRARY, )  
and husband JOHN McCRARY; )  
EUNICE COLEEN MAUNEY, and )  
husband LEON M. MAUNEY; )  
NEVERT L. NATION, and wife DELLA )  
B. NATION; ROY RAMSEY; LISA J. )  
SPLAWN; NORMA R. STARNES, )  
Individually and as Executrix of the )  
Estate of Nick W. Starnes, Deceased; )  
JOHN D. TEAGUE, and wife )  
DOROTHY LEE PHILLIPS TEAGUE; )  
THOMAS C. TIPTON; SARAH )  
JACQUELYN BENNETT, Individually )  
and as Personal Representative of )

the Estate of James Bennett, )  
Deceased; WILLIAM S. BLACK, and )  
wife VICKI BLACK; BOBBY R. )  
HANCOCK, and wife ELNA FAY L. )  
HANCOCK; SHELBY HOWELL; )  
NORMAN H. HILL, and wife )  
CATHERINE C. HILL; EDGAR )  
EUGENE HOMAN, and wife VIRGINIA )  
LEVELL ROBERTS; RAY B. KETCHIE,)  
and wife PEGGY ELLER KETCHIE; )  
BILLY MERCER, and wife CAROL F. )  
MERCER; AGNES M. MIXER, )  
Individually and as Executrix of the )  
Estate of Carl M. Mixer, Deceased; )  
HARGET FRANKLIN MOORE, and )  
wife MAMIE ELIZABETH MOORE; )  
FELIX DONALD WRIGHT, and wife )  
BESSIE WRIGHT; JOHNNIE )  
BRATTEN, and wife KATHLEEN M. )  
BRATTEN; KENNETH BROMELOW; )  
RICHARD ALLEN, and wife )  
DEMENTRA KRISON ALLEN; ALLEN )  
S. DAVIS; DENNIS R. HICKS, and )  
wife PATRICIA J. HICKS; JOHN D. )  
HILTON, and wife BARBARA HILTON;)  
HAYWARD B. McATEER, and wife )  
JEANNETTE R. McATEER; LEE W. )  
McKEOWN, SR., and wife FRANKIE )  
J. McKEOWN; JON ANDREW )  
PARRISH; KELLY D. PURSLEY, and )  
wife SANDRA S. PURSLEY; ALBERT )  
C. SMITH, and wife SHIRLEY F. )  
SMITH; SARAH B. WALTERS, and )  
husband JAMES B. WALTERS; )  
JOHN K. GREENE, and wife BETTY )  
C. GREENE; LEWIS KOEHLER, and )  
wife PAMELA L. KOEHLER; )

EDWARD R. MILLS, and wife )	
SANDRA L. MILLS; HENRY A. )	
HOUGHTON, Administrator of the )	
Estate of Henry M. Houghton, )	
Deceased; and JOHN BRANNON )	
BRIGHT, Executor of the Estate of )	
Jimmy D. Hodge, Deceased; )	
	)
Plaintiffs, )	
	)
Vs. )	
	)
AMCHEM PRODUCTS, INC.,; CBS )	
CORPORATION; CERTAIN-TEED )	
CORPORATION; A. W. CHESTERTON,)	
INC.; CLEAVER BROOKS; CROWN )	
CORK & SEAL COMPANY, INC.; )	
DANA CORPORATION; DRESSER )	
INDUSTRIES; THE FLINTKOTE )	
COMPANY; FOSTER WHEELER )	
CORPORATION; GARLOCK, INC.; )	
GENERAL ELECTRIC COMPANY; )	
GEORGIA-PACIFIC CORPORATION; )	
METROPOLITAN LIFE INSURANCE )	
COMPANY; MINNESOTA MINING )	
AND MANUFACTURING COMPANY, )	
INC.; NATIONAL SERVICES )	
INDUSTRIES; OWENS-ILLINOIS, INC.;)	
RAPID AMERICAN CORPORATION; )	
D. B. RILEY CORPORATION; ATLAS )	
ASBESTOS COMPANY, LTD.; )	
ASBESTOS CORPORATION, LTD.; )	
BELL ASBESTOS MINES, LTD.; )	
LAC D'AMIANTE DU QUEBEC, LTEE; )	
and TURNER ASBESTOS FIBRES, )	
LTD., )	
	)

**ORDER**

**Defendants.** )  
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**THIS MATTER** is before the Court *sua sponte* to clarify certain rulings issued during a pretrial conference conducted on December 12, 2006.

Plaintiffs' counsel have identified five groupings of Plaintiffs for trial in April 2007.<sup>1</sup> Counsel request that trial commence as to Group 1 to be followed sequentially by Groups 2 through 5 until all of the 33 individual Plaintiffs' cases have been tried. The individual Plaintiffs and the Group to which each has been assigned are as follows:

**Group 1 involving exposure at a Duke Power facility:**

Cecil Foster, and his wife, Mattie  
Howard Guffey, and his wife, Gail  
Eunice Mauney, and her husband, Leon  
Jon Parrish  
Albert Smith, and his wife, Shirley

**Group 2 involving exposure at a textiles facility:**

James Henline, and his wife, Louise  
Gary Lavender  
John Teague, and his wife, Dorothy  
Carl Mixer, deceased  
Felix Wright, and his wife, Bessie

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<sup>1</sup>The Court recognizes that the groupings contain named plaintiffs from other cases, such as 3:98cv394 and 5:98cv92. The purpose of this Order is to address only the plaintiffs named in this action, 1:00cv33.

John K. Greene, and his wife, Betty

**Group 3 involving exposure at a textiles facility:**

Ronnie Ingle, and his wife, Christa

Shelby Hewell

**Group 4 involving exposure at a Duke Power facility:**

Nick Starnes, deceased

Allen Davis

**Group 5 involving exposure at a textiles facility:**

Roy Ramsey

William Black, and his wife, Vicki

Norman Hill, and his wife, Catherine

Johnnie Bratten, and his wife, Kathleen

These groupings by the Plaintiffs' counsel have left ungrouped the following individual Plaintiffs<sup>2</sup>:

Willie Godfrey, deceased

James Ammons

Thomas Ard, and his wife, Myra

William Bradley, and his wife, Clydean

David Brown

Richard Day, and his wife, Diane

Herbert Gibson, and his wife, Kay

John Humphries

Sylvia McCrary, and her husband, John

Nevert Nation, and his wife, Della

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<sup>2</sup> Plaintiffs Jimmy and Nancy Hodge, Hayward and Jeannett McAteer, and Edward and Sandra Mills were scheduled for trial in November 2005 and their cases were reported as settled. Likewise, Plaintiffs Homer and Iva Guffey and Richard and Dementra Allen were scheduled for trial in October 2006 and their cases were reported as settled. However, dismissals for these Plaintiffs remain outstanding.

Lisa Splawn  
Thomas Tipton  
James Bennett, deceased  
Bobby Hancock, and his wife, Elna  
Edgar Homan, and his wife, Virginia  
Ray Ketchie, and his wife, Peggy  
Billy Mercer, and his wife, Carol  
Harget Moore, and his wife, Mamie  
Kenneth Bromelow  
John Hilton, and his wife, Barbara  
Lee McKeown, and his wife, Frankie  
Kelly Pursley, and his wife, Sandra  
Sarah Walters, and her husband, James  
Lewis Koehler, and his wife, Pamela  
Henry M. Houghton, deceased

The Court finds the following Defendants remain as defendants:

Amchem Products, Inc.  
A. W. Chesterton, Inc.  
Cleaver Brooks  
Crown Cork & Seal  
CBS Corporation f/k/a Westinghouse  
CertainTeed Corporation  
Foster Wheeler Corporation  
Garlock, Inc.  
General Electric  
Georgia Pacific Corporation  
Metropolitan Life Insurance Company  
3M Company  
National Services Industries  
Owens-Illinois, Inc.  
Rapid American Corporation  
D. B. Riley, Inc. f/k/a Riley Stoker Corporation

The Court finds the following Defendants remain as nominal defendants but have not been included in any grouping for trial:

Dana Corporation  
Dresser Industries  
Flintkote  
Garlock, Inc.  
Rapid American Corporation  
Atlas Asbestos Co., Ltd.  
Asbestos Corporation, Ltd.  
Bell Asbestos Mines, Ltd.  
Lac D'Amiante du Quebec, Ltee, f/k/a Lake Asbestos of Quebec, Ltd.  
Tuner Asbestos Fibres, Ltd.

During the pretrial conference, counsel informed the Court that out of the above Defendants, the only ones remaining in the action are Amchem Products, Inc.; A. W. Chesterton, Inc.; Cleaver Brooks; Crown Cork & Seal and North Brothers, Inc. North Brothers is not named as a defendant in this case.

The Court has the following questions which the parties are to address by written pleading to be filed with the Court. Plaintiffs' counsel shall respond within 10 business days and defense counsel shall respond within 10 business days after the Plaintiffs' response.

1. Is it possible to add one or more of the remaining 26 Plaintiffs to any one or more of the Groups 1 through 5?
2. What Defendants remain in the action for trial?

3. If the remaining 26 Plaintiffs cannot be added to the groups presently set, what grouping of these remaining Plaintiffs is proposed and what trial date is requested?

**IT IS, THEREFORE, ORDERED** that on or before **DECEMBER 26, 2006**, the Plaintiffs shall respond to the interrogatories above.

**IT IS FURTHER ORDERED** that on or before **JANUARY 5, 2007**, the Defendants shall file response to the interrogatories above.

**IT IS FURTHER ORDERED** that the first group of Plaintiffs, in final form which will be set by the Court after the parties' responses are reviewed, are hereby **CALENDARED** for trial to begin on April 9, 2007, and continuing group by group for a three week term of Court.

**IT IS FURTHER ORDERED** that dismissals and/or consent judgments be filed as to the Plaintiffs whose cases were settled from the November 2005 and October 2006 trial calendars within 30 days from entry of this Order.

Signed: December 15, 2006



Lacy H. Thornburg  
United States District Judge

